

AppL No. 09/909,288
Atty. Docket No. CM2506
Amdt. dated 8/15/2005
Reply to Office Action of 5/26/2005
Customer No. 27752

REMARKS/ARGUMENTS

Claims 57, 58, 60 and 62-65 are now under consideration. Claims 30-35 stand withdrawn.

Claim 57 has been amended to place it in independent form, to properly employ the terms "product" and "cleaning composition" (or "composition") and to specify the presence of the natural gum in the thickening system. (Basis at page 15, lines 1 and 5.)

Claim 57 now recites the organoamine solvent component. Claim 51 has been cancelled as redundant.

Claims 60 and 62-65 have been amended to relate back, ultimately, to "product" Claim 57, to employ proper Markush language and to correct a minor transcribing error.

Claim 57 has also been amended to meet the objections (Office Action page 3) based on informalities.

It is submitted that all amendments are fully supported, and entry is requested.

Objections

It is submitted that the objections ("having" vs. "have") with respect to now-remaining Claim 57 has been met by the aforesaid amendments. Accordingly, it is submitted that all objections on this basis regarding claims now under consideration should be withdrawn.

Rejections Under 35 USC 103

Claims 38-40, 42-55 and 57-66 stand rejected over U.S. 5,929,007 in view of U.S. 5,202,050 and JP 8151597, for reasons of record at pages 5-9 of the Office Action.

Claim 56 stands rejected over '007 in view of '050 and JP '597, and further in view of U.S. 5,739,092, for reasons of record at pages 9-10 of the Office Action.

Applicants respectfully traverse the rejections, to the extent they may apply to the claims as now amended.

It is noted that the rejection of Claim 56 has been obviated by the cancellation of that claim.

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It is submitted that the now-recited mixed smectite/xanthan element, taken together with the other elements recited in the amended claims, serves to distinguish the present invention over all the aforesaid cited documents, taken singly or in combination.

The '007 patent teaches xanthan thickeners, but does not suggest their use with clay to control droplet spray site in the present manner (specification at page 15, line 13).

In this regard, the Examiner's attention is drawn to cited JP '597 (Patent Instant Machine Translation Version at page 4). There, the patentees discuss the problems associated with the use of organic type thickeners, especially "thread pulling." See [0003]. In order to avoid such problems, the Japanese inventors employ clay thickeners.

In short, the message in JP '597 is: For these kinds of compositions, replace organic thickeners with clays. Clearly, nothing therein would suggest combining organic thickeners (such as xanthan) with clay.

Indeed, it is fair to say that JP '597 teaches away from organic thickeners. Accordingly, since '007 specifically teaches organic thickeners, these documents cannot, in fact, be combined. MPEP 2145.

While '050 does teach smectite clays and also teaches xanthan (col. 6, lines 66-67) it is submitted that it does not fairly suggest their combined use in compositions of the present type. Note, that '050 does not teach mixtures of clay/xanthan in compositions having the other defining elements of the present compositions.

And, again, JP '597 teaches away from such combined use, so the combination of '050/JP'597 is impermissible.

The Examiner's thorough consideration and discussion of the teachings of the cited documents, particularly the multiple solvents and other individual compositional ingredients disclosed therein, are acknowledged.

In point of fact, Applicants admit that many known ingredients are employed in the present invention. However, it is settled law that mere broad-scale disclosures of myriad ingredients in the art are not dispositive of the issue of patentability under §103. *Ex parte Hiyamizu*, 10 U.S.P.Q. 2d 1393, 1394 (BPAI 1988).

Moreover, as explained by the CAFC in *Princeton Biochemicals, inc., v. Beckman Coulter, Inc.*, 04-1493, 2005 U.S. App. LEXIS 10672 (6/9/05), at page 4:

As discussed, simply identifying all of the elements in a claim in the prior art does not render a claim obvious. (Citing Ruiz, earlier discussed, for the proposition that the §103 issue is whether there is motivation to combine the elements.)

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In addition, in the same *Princeton* case at page 5, the CAFC considered the issue of motivation based on the "knowledge of one of skill in the art":

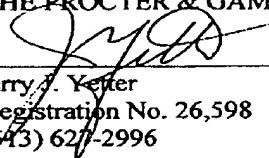
In In re Lee, this court expressed skepticism about invoking the knowledge of a skilled artisan to supply the motivation to combine on a scanty record. 277 F.3d 1338, 1343-44 (Fed. Cir. 2002) "This factual question of motivation . . . could not be resolved on a subjective belief and unknown authority." [emphasis supplied]

Succinctly stated, the question of obviousness under §103 is not what the artisan could have done, but what would have been obvious for the person to do. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 USPQ 2d 1081 (Fed. Cir. 1986). Absent some record evidence of a motivation to select and combine certain of the ingredients exhaustively listed in combination of cited documents to achieve the present invention, it is submitted that the rejections under §103 should be withdrawn.

In light of the foregoing, early and favorable action is requested

Respectfully submitted,

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